

SENATE No. 398

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to Provide Public Input into changes to Public Lands and Buildings located thereon.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	Middlesex and Worcester
Denise Provost	27th Middlesex
Cheryl A. Coakley-Rivera	10th Hampden
Jennifer M. Callahan	18th Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROVIDE PUBLIC INPUT INTO CHANGES TO PUBLIC LANDS AND BUILDINGS LOCATED THEREON.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws of the Commonwealth of Massachusetts are hereby amended by inserting after chapter 132B the following chapter:

Chapter 132C. PUBLIC NOTICE AND INPUT FOR CHANGES IN CERTAIN PUBLIC LANDS AND BUILDINGS

Section 1. Purpose

The purpose of this chapter is to provide for public notice and input to plans for significant physical alterations to state parks and other public natural resource lands.

Section 2. Definitions

Unless the context clearly requires otherwise, when used in this chapter, the following words and phrases shall have the following meanings:—

"Abutter," owner of any property within one half mile from the closest boundary of an affected district.

"Affected district," state land district in which the regulated activity is to occur.

"Regulated activity," any of the following, other than routine maintenance and removal of dead trees or trees that pose an imminent threat to the safety of persons:

- a. Removal of more than one half a contiguous acre of trees, brush, or any plant material.
- b. Expansion or creation of paved areas or the placement of permeable, semi-permeable or non-permeable materials.
- c. Removal of more than 10 trees each of more than 8" diameter, measured 4.5 feet above the ground, within any contiguous area of five acres or less of any shape, provided that the area is no less than ten feet across at its narrowest point.
- d. Removal of more than 50 trees each of more than 8" diameter, measured 4.5 feet above the ground, in any state land district.
- e. Construction or expansion of any structure, including, but not limited to, any building, storage facility, tower, or shelter, covering an area in excess of 24 square feet on, above, or below any land or water.
- f. Clearing, grading, or construction for access roads or other facilities or areas in connection with any of the above.

"State agency," commonwealth of Massachusetts or any department or agency thereof or any board, authority, or public entity created thereby, not including municipalities and towns.

"State land district" any land area owned or under the control a state agency, including but not limited to state parks, forests, reserves, recreation areas, parkways, watershed areas, or beaches.

Section 3. Public hearing

No state agency may perform, authorize, grant a permit for, or otherwise enable any regulated activity on a state land district unless said agency has held, no less than 30 days prior to

commencement of any part of the regulated activity, one or more public hearings on the proposed regulated activity at a time or times and location or locations convenient to the abutters of the affected district. Where more than one state agency is involved the agencies may hold a joint hearing or hearings. The Executive Office of Environmental Affairs shall promulgate rules and regulations for said public hearings.

Section 4. Public notice

The Executive Office of Environmental Affairs shall promulgate rules and regulations as necessary to effect the requirements set forth herein.

No public hearing under section 3 may be held nor shall be valid unless preceded by the public notices described in this section and listed below. Each notice shall state the purpose, general description, affected district, timing, and likely duration of the proposed regulated activity; the location (including a map or sketch of the general area showing location of the proposed regulated activity) in sufficient detail and clarity that public citizens can find the site of the proposed regulated activity; the date, time, and place of the public hearing; the subject matter of the hearing; the nature of the action or relief requested, if any; the place where the full plan of the proposed regulated activity and any application may be inspected; the case or other identification number, if any, of the application or proposed regulated activity; the place where written comments may be directed; the phone number or numbers of the state agency or agencies contact person or persons where further information may be obtained. Where the regulated activity involves cutting or removal of any tree more than 8" diameter, measured 4.5 feet above the ground, the public notice shall indicate the type and size of tree, the notice shall be made during the months of June, July, or August, and the notice shall be posted upon the tree as well as at the locations listed below. The state agency or agencies holding the hearing shall put in place all

60 postings and public notification panels no less than 30 days prior to the hearing and shall
61 maintain said postings and panels continuously in legible and readable form, including
62 replacement thereof as necessary, until the time of the hearing.

63 Posting in two or more public places in each town or municipality within which any or all of the
64 affected district is located, regardless of whether the physical site of the regulated activity is
65 within the town or municipality.

66 a. Publication in a newspaper of general circulation in each town or municipality covered
67 by section 4, paragraph a, once in each of two successive weeks, the first publication to
68 be not less than seven days before the day of the hearing.

69 b. Posting of the proposed regulated activity on the website of the Executive Office of
70 Environmental Affairs.

71 c. Posting in a prominent place at the building or facility in the affected district most
72 frequented by the public, or, if there is no such appropriate building or facility, at the
73 nearest state or public building or facility to the location where the proposed regulated
74 activity is to occur.

75 d. In the case of state parks, forests, and recreation areas, and other state land districts
76 frequented by the public, posting on appropriate public notification boards maintained on
77 the premises.

78 e. Installation of public notification panel or panels at all public entrances, including roads,
79 sidewalks, pathways, and trail heads, to the affected district, and along parkways or other
80 roads adjacent to the affected district at intervals of no less than one mile. Panels shall be
81 securely mounted, clearly visible from the relevant public way, and contain a heading

82 legible and readable from the relevant public way, proclaiming the subject matter of the
83 notice.

- 84 f. Certified mail or hand delivery to each abutter of record on file with the assessors of the
85 relevant municipality or town.

86 **Section 5. Injunctive relief**

87 If a state agency commences or permits the commencement of a regulated activity without
88 having complied with sections 3 and 4 in all particulars, any citizen, corporation, association,
89 town, or municipality residing, incorporated, organized, or chartered, as the case may be, in
90 Massachusetts shall be entitled, upon presentation of evidence of the state agency's failure to so
91 comply to a court of competent jurisdiction, to injunctive relief and a cease and desist order
92 against said state agency from said court.